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Executive Research Project

1988

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**The Army Judge Advocate
General's Corps
Recruiting Program:
Can It Continue To Attract
Quality Lawyers?**

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JUL 12 1989

by

Colonel

Kenneth D. Gray,

USA

Faculty Research Advisor

Commander Annette M. Wiechert, USN

The Industrial College of the Armed Forces
Fort McNair, DC 20319-6000

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AUG 29 2002 12

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SECURITY CLASSIFICATION OF THIS PAGE

REPORT DOCUMENTATION PAGE

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|--|-------------|---|---|---|-------------------------------|---------------------|-------------|----------|-------------------------|--|--|--|--|
| 1a. REPORT SECURITY CLASSIFICATION Unclassified | | | 1b. RESTRICTIVE MARKINGS CRITICAL TECHNOLOGY 12 JUL 1989 | | | | | | | | | | |
| 2a. SECURITY CLASSIFICATION AUTHORITY N/A | | | 3. DISTRIBUTION/AVAILABILITY OF PREORT "Distribution Open to Department of Defense. All other requests should be forwarded through the National Defense University, ATTN: NDU-LD-SCH, Washington, D.C. 20319-6000. Contractors' requests must be signed by the DOD contract monitor to verify need to know." | | | | | | | | | | |
| 2b. DECLASSIFICATION/DOWNGRADING SCHEDULE N/A | | | 5. MONITORING ORGANIZATION REPORT NUMBER(S) Same | | | | | | | | | | |
| 4. PERFORMING ORGANIZATION REPORT NUMBER(S) NDU-ICAF-88- S27 | | | 5. MONITORING ORGANIZATION REPORT NUMBER(S) Same | | | | | | | | | | |
| 6a. NAME OF PERFORMING ORGANIZATION Industrial College of The Armed Forces | | 6b. OFFICE SYMBOL (If applicable) ICFA-AO | | 7a. NAME OF MONITORING ORGANIZATION NDU | | | | | | | | | |
| 6c. ADDRESS (City, State, and ZIP Code) Ft McNair Washington, DC 20319-6000 | | | 7d. ADDRESS (City, State, and ZIP Code) Library Ft McNair Washington, DC 20319-6000 | | | | | | | | | | |
| 8a. NAME OF FUNDING/SPONSORING ORGANIZATION | | 8b. OFFICE SYMBOL (If applicable) | | 9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER | | | | | | | | | |
| 8c. ADDRESS (City, State, and ZIP Code) | | | 10. SOURCE OF FUNDING NUMBERS | | | | | | | | | | |
| | | | <table border="1"> <tr> <td>PROGRAM ELEMENT NO.</td> <td>PROJECT NO.</td> <td>TASK NO.</td> <td>WORK UNIT ACCESSION NO.</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table> | | | PROGRAM ELEMENT NO. | PROJECT NO. | TASK NO. | WORK UNIT ACCESSION NO. | | | | |
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| | | | | | | | | | | | | | |
| 11. TITLE (Include Security Classification) The Army Judge Advocate General's Corps Recruiting Program: Can it Continue to Attract Quality Lawyers? | | | | | | | | | | | | | |
| 12. PERSONAL AUTHOR(S) Colonel Kenneth D. Gray, USA | | | | | | | | | | | | | |
| 13a. TYPE OF REPORT Research | | 13b. TIME COVERED FROM Aug 87 to Apr 88 | | 14. DATE OF REPORT (Year, Month, Day) April 88 | | | | | | | | | |
| 15. PAGE COUNT 26 | | | | | | | | | | | | | |
| 16. SUPPLEMENTARY NOTATION | | | | | | | | | | | | | |
| 17. COSATI CODES | | | 18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number) | | | | | | | | | | |
| FIELD | GROUP | SLB-GROUP | | | | | | | | | | | |
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| 19. ABSTRACT (Continue on reverse if necessary and identify by block number) See Attached | | | | | | | | | | | | | |
| <p style="text-align: center;">CLEARED FOR OPEN PUBLICATION</p> <p style="text-align: center;">AUG 29 2002 12</p> <p style="text-align: center;">DIRECTORATE FOR FREEDOM OF INFORMATION AND SECURITY REVIEW DEPARTMENT OF DEFENSE</p> | | | | | | | | | | | | | |
| 20. DISTRIBUTION AVAILABILITY OF ABSTRACT <input type="checkbox"/> UNCLASSIFIED-UNLIMITED <input checked="" type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS | | | 21. ABSTRACT SECURITY CLASSIFICATION Unclassified | | | | | | | | | | |
| 22a. NAME OF RESPONSIBLE INDIVIDUAL Judv Clark | | | 22b. TELEPHONE (Include Area Code) 202-475-1889 | | 22c. OFFICE SYMBOL ICFA-AO | | | | | | | | |

ABSTRACT

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AUTHOR: Kenneth D. Gray

PURPOSE: To determine whether the services can compete in the recruitment of quality lawyers to serve on active duty.

INTENDED READERSHIP: Faculty Research Advisor

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This research project examines the Army Judge Advocate General's Corps Recruiting Program and whether it can continue to attract quality lawyers for service in the Judge Advocate General's Corps. It compares the Army lawyer recruiting program with the lawyer recruiting programs of the other services. The primary focus is on whether the services can compete in the recruitment of quality lawyers, to serve on active duty, despite a declining law school population; an increase in the average starting civilian salary; and, ROTC policies that allow scholarship students, who are also law school graduates, to satisfy their obligations in the U. S. Army Reserve.

In addition, this research project looks at the development of the Army JAGC recruiting program, how the other services recruit lawyers, the Army minority and women lawyer recruiting program; analyzes the reasons for the decline in applications for Army JAGC, and recommends solutions based on findings resulting from this analysis.

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Fort McNair, DC 20319-6000**

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Colonel Gray received a Bachelor of Arts degree in Political Science from West Virginia State College, Institute, West Virginia and a Juris Doctor Degree from the College of Law, West Virginia University.

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In addition, this research project looks at the development of the Army JAGC recruiting program, how the other services recruit lawyers, the Army minority and women lawyer recruiting program; analyzes the reasons for the decline in applications for Army JAGC, and recommends solutions based on findings resulting from this analysis.

THE ARMY JUDGE ADVOCATE GENERAL'S CORPS RECRUITING PROGRAM:
CAN IT CONTINUE TO ATTRACT QUALITY LAWYERS?

EXECUTIVE SUMMARY

On September 28, 1987, the Chief recruiter for the Army Judge Advocate General's Corps (JAGC) expressed concern over the decline in applications for commission in the JAGC. She was concerned that the decline in applications could, in the future, have an impact on the ability of the JAGC to continue to attract quality lawyers for the Corps. Failure to maintain quality lawyers could impact on the delivery of legal services for the Army and its personnel.

Is the Army JAGC recruiter's concern justified? Are the other services having the same problem? This research Project will answer these questions. It compares the Army lawyer recruiting program with the recruiting programs of the other services. The primary focus is on whether the services can compete in the recruitment of quality lawyers, to serve on active duty, despite a declining law school population; an increase in the average starting civilian salary; and, ROTC policies that allow scholarship students, who are also law school graduates, to satisfy their active duty obligations in the U.S. Army Reserve.

Significant findings are:

1. There has been a 50% decline in the number of applications for the Army JAGC since Fiscal Year (FY) 1983.
2. The downward trend has been caused by:
 - a. A decline in law school enrollment
 - b. An increase in the average starting civilian salaries.
 - c. Law firms that hire law graduates prior to their admission to the Bar.
 - d. ROTC Educational delay policies that allow officers to satisfy their active duty service obligations in the Reserve.
 - e. Recent budget and personnel reductions that have limited the number of new officers that can be commissioned.
3. I also found that the inquiries received as a

4. The minority and women recruiting programs are strongly supported by the services. They have aggressive recruiting programs that seek to achieve the federal policy objective of promoting equal opportunity in all phases of government service.

Based on the above findings, I recommend:

1. Providing additional financial incentives to those commissioned in the JAGC, such as assistance to pay back student loans. (Budget constraints may preclude developing a new program to accomplish these recommendations -- unless the decline in applicants becomes so critical as to raise its priority.)

2. Revising ROTC Educational Delay policies to ensure that officers granted educational delay be required to apply for a JAGC commission during their third year of law school. Because of personnel reductions and space limitations, many of these officers are allowed to serve their obligations in the Reserve.

3. Developing a program that would allow commissioning law school graduates selected for JAGC before they are licensed to practice law. They would be commissioned as second lieutenants and enter active duty as law clerks while waiting for their bar examination results -- a period of up to four months. Following a two week indoctrination course at Fort Lee, Virginia, they would serve in Staff Judge Advocate offices in the Continental United States (CONUS).

4. Modifying some existing programs to increase the number of officers eligible to attend law school, e.g.:

- * Reestablish the Excess Leave Program for active duty officers;
- * Expand the Funded Legal Education Program (FLEP) from 10 back to 25 students per year;
- * Modify the Graduate Studies Program by reducing the number of officers funded to receive a masters in law -- use the funds to increase the FLEP program.

Modifying existing programs will be the most effective method of increasing the recruiting pool since budget and personnel constraints will preclude development of new programs.

Finally, I have concluded that the Army can continue to recruit quality legal talent for the Corps for the next few years because of the aggressive recruiting programs already being used. Because the process will be more difficult in the future, the services must continue to develop innovative methods of attracting quality applicants to the JAGC.

THE ARMY JUDGE ADVOCATE GENERAL'S CORPS RECRUITING PROGRAM:
CAN IT CONTINUE TO ATTRACT QUALITY LAWYERS?

CHAPTER 1

INTRODUCTION

An article appeared in the September 28, 1987, issue of the Army Times in which the Chief of Army JAGC recruiting expressed concern over the decline in applications for commission in the Judge Advocate General's Corps (JAGC).¹ The article also discussed the JAGC concern that the decline in applications could, in the future, have an impact on the ability of the JAGC to continue to attract quality lawyers for the Corps.² Of course, a failure to maintain quality talent would impact on the delivery of legal services for the Army and its personnel.

Is the Army JAGC recruiters concern justified? Are the other services having the same problem? This Research Project will answer these questions. It will compare the Army program with the lawyer recruiting programs of the other services. As previously indicated, the primary focus will be on whether quality lawyers can continue to be recruited by the services despite a declining law school population, an increase in the average starting civilian salary, and, ROTC policies that allow scholarship students, who are also law school graduates, to satisfy their obligations in the U. S. Army Reserve.

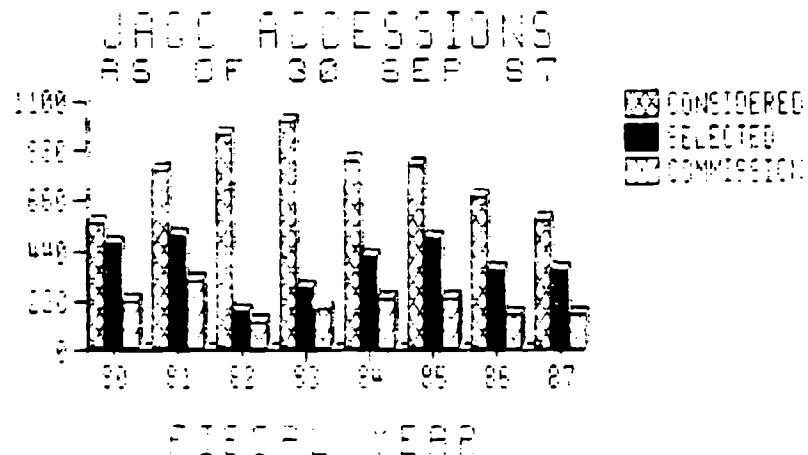
The Army JAGC recruiter's concern appears justified. Especially when one looks at the following information: In Fiscal Year (FY) 1987, the JAGC received 576 applications for commission. Of that number, 356 were selected, and 156 were actually commissioned. At first glance, this may not seem significant. But, in fact, this 5 : 3 : 1 ratio represents a disturbing downward trend in applicants that raises the issue of whether top law school graduates can

¹ Charles Bogino, "Quality of JAG Applicants Causes Concern", The Army Times, 28 Sep 87, p. 29.

² The term "quality lawyers" is broadly defined with varying criteria. For purposes of this paper the term refers to a cross section of lawyers, and would include a number of applicants from the top 10% of their law school graduating class.

continue to be attracted by the services.

The problem becomes more apparent when we compare the FY 87 figures with FY 83. In FY 83, the Army JAGC received its highest number of applicants -- 1,010 applied and 278 were selected for 184 openings.³ The following graph charts the applications received.



Applications for FY 87 were about 50% lower -- 576 applications received for 150 openings -- as compared with the applications received for FY 83. What's causing this downward trend? How are the other Services doing? Will the trend continue? If so, can anything be done to reverse it? These questions must be answered if we are to continue to recruit quality lawyers for the services.

My hypothesis is that, while the recruitment of judge advocates will be more difficult in the future, the Army JAGC Recruiting Program is recruiting and can continue to recruit quality lawyers for the Army. This is a direct result of the current aggressive recruiting program and strict selection criteria already being used.

Each applicant is personally interviewed by a JAGC

³ These statistics were provided by the Army Professional Recruiting Office, Personnel, Plans, and Training Office, Office of the Judge Advocate General. (Subsequently cited as Army JAGC Recruiting Statistics).

recruiter called a Field Screening Officer (FSO). The FSO prepares an interview report on each applicant interviewed. Interview reports are considered by a selection board that meets twice per year to select applicants. The president of the board is normally a General officer and at least six other officers. Each board also includes a minority and female officer. Although fewer applications are being received, the stringent selection criteria has ensured that only the best applicants are selected.⁴ However, proposed budget and personnel reductions will require the services to develop more innovative recruiting techniques to meet the challenge of maintaining a quality legal force in the future. Based on a comparison of the recruiting programs of the other services, new initiatives must be developed to ensure that sufficient applications are obtained. This will enable the Army to compete with the other services and the civilian sector for quality lawyers.

My findings lead to the following recommendations:

1. Provide additional financial incentives to prospective applicants to compete with the salaries offered by civilian law firms.
2. Revise ROTC policies to require ROTC scholarship students to serve their obligations on active duty rather than in the Reserve Components.
3. Revise the application process to make it more convenient for applicants to come on active duty following graduation from law school.
4. Continue to revise the advertising campaign to maintain its focus on the target population.

4

Army JAGC Selection Board Criteria: The JAGC Selection board recommends the best qualified and most well-rounded applicants. Selection is based on the total person concept and the following factors -- basic eligibility (Army Regulations 601-102 and 600-9), the FSO interview report, undergraduate and law school grades and class standing, Law School Admission Test score, legal and nonlegal work experience, maturity, letters of recommendation, and indications of leadership potential. All applicants compete equally. The final decision on applicants recommended for appointment is made by The Judge Advocate General.

5. Continue emphasis on the minority and women lawyer recruiting program.

Pending budget and personnel reductions will likely preclude implementing some of the recommendations, (e.g. additional financial incentives.) Unfortunately, the application pool is still shrinking and the applications submitted will continue to decline unless something is done.

Our search for the answer to some of the questions raised above begins with an analysis of the Army JAGC Recruiting Program.

CHAPTER 2

DISCUSSION

Development of the Army JAGC Recruiting Program

Although the Army JAGC has recruited lawyers for many years, the Army JAGC Recruiting Program, as it exists today, began in FY 1971, along with the All Volunteer Force (AVF) concept. Faced with the dilemma of not having as many applicants as in the past because of the AVF, innovative recruiting techniques had to be developed to attract the best lawyers for the Corps.

As a part of the Army JAGC Recruiting Program, the Army Judge Advocate General also began a Minority and Women lawyer Recruiting program.⁵

The JAGC Minority and Women Lawyer Recruiting Program preceded the Report of the Task Force on the Administration of Military Justice in the Armed Forces released in the early 1970s.⁶ That report cited a need for more minority lawyers to serve on active duty to represent minority soldiers in Courts-martial. The Committee concluded that the representation of the soldiers by White JAGC attorneys was not inadequate, rather the soldiers felt they could get better representation if they had a chance to consult with an attorney of their similar cultural background.⁷ Thus, an increased emphasis was placed on minority recruiting by all the services, and innovative recruiting programs were established.

The Office of the Judge Advocate General, Personnel,

⁵ The Army Lawyer: A History of the Judge Advocate General's Corps, 1775-1975, Superintendent of Documents, U.S. Government Printing Office, 1975, pp. 251-52.

⁶ Report of the Task Force on the Administration of Military Justice in the Armed Forces, Volume I, 30 Nov 72. The Task Force was commissioned on April 15, 1972, by Honorable Melvin R. Laird, then Secretary of Defense, to consider whether racial and ethnic discrimination existed in military justice, and whether there was a disparity in punishment rates between minority and majority service members.

⁷ The Task Force Report, Note 6.

Plans and Training Office (PP&TD), Pentagon, coordinated the JAGC Recruiting Program. The Recruiting Program required field recruiters (judge advocates) to visit each law school in the country to discuss the JAGC with prospective applicants. A Black judge advocate visited the predominately Black law schools.

When the program was started, there were 16 Black, and 8 female officers out of 1600 serving in the JAGC. Today, the recruitment of all minorities and women has been very successful. There are more than 1700 JAGC officers serving on active duty in the Army. Of that number, 203 are Women, 104 Black, 31 Hispanic and 17 Asian/Native Americans.

WOMEN AND MINORITY JAGC OFFICERS*

| | <u>1971</u> | <u>1987</u> |
|--------------------------|-------------|-------------|
| JAGC STRENGTH | 1600 | 1750 |
| BLACK | 16 | 104 |
| HISPANIC | * | 31 |
| ASIAN/NATIVE AMERICAN | * | 17 |
| WOMEN | 8 | 203 |

*NOT AVAILABLE

Although the Minority and Women lawyer Recruiting Program has been highly successful, it too, has been affected by the downward trend in the number of applications.

An analysis of the impact of the overall downward trend in applicants begins with an examination of the recruiting programs of the other services.

• Army JAGC Recruiting Statistics.

How Do The Other Services Recruit Lawyers?

Each service has an aggressive recruiting program that competes with each other, and the civilian sector for the available legal talent. The services' judge advocate recruiting materials reveal that qualification requirements are essentially the same for all the services:

- An applicant must be at least 21 years of age, but less than 35 (33 for the Air Force), at the time of appointment.
- Each applicant must have received a J.D. or LL.B. from an American Bar Association (ABA) approved law school, and,
- Be admitted to practice law before a federal court, the highest court of any state in the United States, or the District of Columbia.
- An applicant must meet the respective service standards for mental and physical fitness, moral character, security clearance, and citizenship.

The Recruiting programs also advertise in national magazines, recruit at all American Bar Association approved law schools by sending information or a recruiter, and offers an opportunity for direct commission from civilian life to qualified attorneys.

Each service has its own special recruiting programs but they are similar to each other in many ways. A brief synopsis of each program follows:

1. ARMY -- There are more than 1700 lawyers serving as officers in the Army Judge Advocate General's Corps. The Army needs to recruit 156 new officers this fiscal year to meet accession requirements. Each new officer must serve three years on active duty. Officers who attended law school on an ROTC scholarship have a four year service obligation. New judge advocates attend a two-week military orientation course at Fort Lee, Virginia, followed by a ten-week academic course at The Judge Advocate General's School, Charlottesville, Virginia. New judge advocates enter active duty by several methods -- direct appointment from civilian life; Transfer from another branch or service; The Funded Legal Education Program (FLEP) (currently 10 active duty officers per year are allowed to attend law school fully funded and with full pay and allowances -- it was reduced from 25 to 10 officers

per year in 1983); Educational Delay Program for ROTC Graduates; and the Summer Intern Program. The Army JAGC also has an Excess Leave Program that has been suspended (That program allowed selected active duty and ROTC officers to attend law school at no expense to the government). As previously discussed, the Army also recruits at all ABA approved law schools by sending recruiters -- called Field Screening Officers (FSOs) -- to discuss the JAGC with law students. These officers receive formal training in recruiting techniques at a Recruiter's Conference held annually at the Judge Advocate General's School, Charlottesville, Virginia. Currently, 49 FSOs are located at Staff Judge Advocate Offices throughout CONUS and overseas. The conference is sponsored by the JAGC Professional Recruiting Office, Fort Belvoir, Virginia. Every applicant for a commission in the JAGC or for a position as a summer intern is personally interviewed by an FSO. The FSO prepares an Interview Report on each person interviewed and that report, along with other information in an applicant's file, is used by the JAGC Accessions board to determine whether that applicant is qualified for a commission in JAGC.

2. AIR FORCE -- The Air Force has approximately 1400 lawyers serving as officers in The Judge Advocate General's Department. The Air Force JAG Department needs about 150 new lawyers for FY 88. These new officers will incur a four year service obligation after completing an initial two week training course at Lackland Air Force Base, San Antonio, Texas. They enter active duty through one of eight accession programs -- Direct Appointment Program (DAP), Recall Program, Funded Legal Education Program (FLEP), Excess Leave Program (ELP) which allows active officers with at least two years of service to attend law school at their own expense. The Air Force also has a 4 year active duty service commitment, Educational Delay Program for Air Force ROTC Graduates, Graduate Law Program (GLP) which is a two-year Air Force ROTC program for law students, Intraservice Transfer, and Interservice Transfer. The Air Force JAG Recruiting Program also consists of Direct Mail of information to law school placement offices, law students, and lawyers. Approximately 80 judge advocates, located throughout CONUS and overseas, are designated as recruiters who serve as points of contact for law school Placement Directors, law students, and lawyers.

3. NAVY -- The Navy Judge Advocate General's (JAG) Corps has about 1,000 Navy officers who serve as lawyers on the Navy's legal staff. The Navy JAG needs to appoint 85 new lawyers this fiscal year. These new lawyers

incur a three year active duty obligation after completion of a six-week Officer Indoctrination Course and the nine-week course at the Naval Justice School, Newport, Rhode Island. New officers enter Navy JAG in one of two ways: (1) Law school graduates admitted to practice may seek and receive Direct Appointments as lieutenants junior grade. (2) Law and pre-law students may be selected to join the JAG Corps Student Program where an applicant is commissioned an ensign, U. S. Naval Reserve, for inactive duty.

4. MARINE CORPS -- The Marine Corps' Judge Advocate Division consists of approximately 520 officer/lawyers. The JAG Division has about 70 openings for this fiscal year. New officers are required to serve on active duty for three and a half years. They enter the JAG Division through three programs -- Platoon Leaders Class - Law (PLC-L); Officer Candidate Class - Law (OCC-L); and Women Officer Candidate Program - Law (WOCP-L).

5. COAST GUARD -- The Coast Guard has about 150 lawyers on active duty. They obtain their new accession, about eight to ten each year, from a Funded Legal Education Program or through a direct appointment program. They do not have a problem filling their requirements. According to the Chief of Legal Administration for the Coast Guard, they usually do not have to actively recruit to fill their vacancies.

Several of the services also have a form of Summer Intern Program. The Army, through its Summer Intern Program, actually hires 100 first and second year law students as temporary civil servants for approximately 90 days. These student interns serve in judge advocate offices in the United States and Europe. The Air Force, through its ELP, allows active duty commissioned officers to attend law school, at their own expense, but enter active duty during the summer to perform an internship at bases near their law school. The Navy, through its Student Program, actually commissions law students as officers (ensign), and following a six-week Officer Indoctrination School (OIS) in which they receive ensign's pay, they are eligible to participate in the JAG Corps Intern Program as law clerks.

All of the services -- except the Coast Guard -- have an aggressive recruiting program. While the Navy, Marine Corps, and Coast Guard are not experiencing any difficulty in filling their vacancies, the Army and Air Force face a similar problem of a decline in applications. Unless a sufficient flow of applications is maintained the number of

quality lawyers providing legal services to its personnel will decline.

In comparing the services' recruiting programs, it appears that the Army JAGC recruiting program should consider developing, with a few modifications, a program similar to the Air Force's ELP and GLP programs, and the Navy's JAG Corps Student Program. This will be discussed further in the next Chapter.

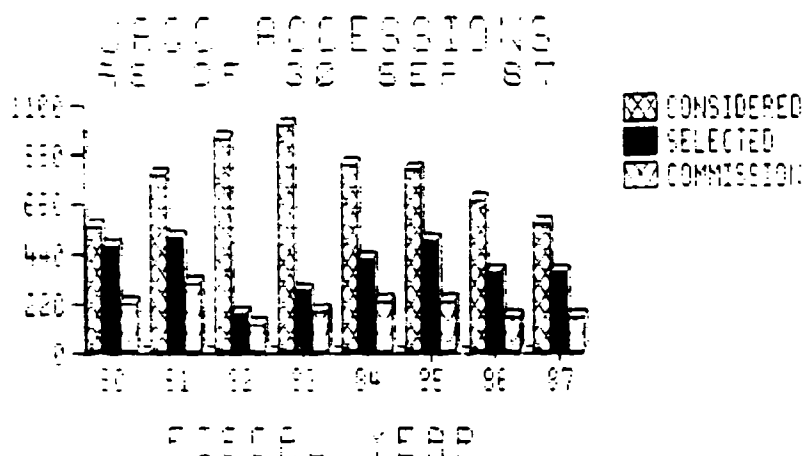
The following analysis, as indicated earlier in this research project, will focus primarily on the Army JAGC recruiting program.

CHAPTER 3

FINDINGS AND ANALYSIS OF THE PROBLEM

Decline In Applications

Since Fiscal Year (FY) 1983, applications for the Army JAGC have declined significantly.* The following chart demonstrates the dramatic swing in the number of applicants in the 1980s to the present:



As indicated in the chart above, applications rose to a high of 1010 in FY 83, and then started to decline to the point that applications for FY 87 were 50% lower than in FY 83. A report submitted to The Judge Advocate General analyzing this downward trend in applicants, concluded that quality of applicants has suffered and will continue to suffer unless this trend is reversed.¹⁰

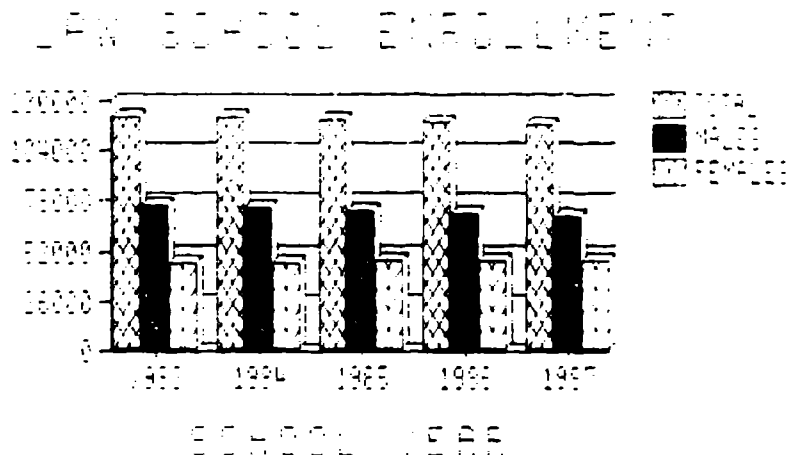
What's causing the downward trend in applications? There isn't just one answer, but a combination of factors that have led to this result.

Army JAGC Recruiting Statistics.

St. Amand, Gerald, Memorandum For The Judge Advocate General (Army), JAGC Recruiting and Retention, March 26, 1987.

1. Decline in law school enrollment -- Law school enrollment has declined since 1983, which was the peak period for applications for the JAGC since the AVF/FY 71 beginning. The following charts graphically illustrate the trend in law school population since 1983:

| LAW SCHOOL ENROLLMENT DATA 1983-1987 | | | | |
|--------------------------------------|--------|-------|---------|-----------------|
| SCHOOL YEAR | TOTAL | MALES | FEMALES | JAGC APPLICANTS |
| 1983 | 121791 | 76252 | 45539 | 1010 |
| 1984 | 121201 | 74840 | 46361 | 836 |
| 1985 | 119847 | 72950 | 46897 | 815 |
| 1986 | 118700 | 71214 | 47486 | 678 |
| 1987 | 117813 | 69874 | 47939 | 576 |



As indicated by the chart above, law school enrollment has been in a steady decline for the last four years. Male law student enrollment has declined along with the overall enrollment in law school population. But, the enrollment of women has risen. Women now make up over 40% of the total law school population. Although applications from women for a commission in the JAGC have increased an

Army JAGC Recruiting Statistics.

average of 19% per year since FY 83, that increase has been insufficient to offset the impact of the overall downward trend in applicants.¹² The shrinking pool of male applicants has caused the decline in the number available to apply for a JAGC commission. Further, many of the women are starting a second career and are not interested in a commission in the JAGC. Also many law graduates, male and female, are in two-career families and military service cannot, in many instances, accommodate both careers.¹³

Increase in Average Starting Civilian Salaries

Rising civilian salaries have also created a problem in recruiting. Civilian law firms have raised the starting salary for top law graduates to \$72,000 per year.¹⁴ The average salary for law school graduates entering private practice with a law firm is \$35,000 dollars.¹⁵ In comparison, a first lieutenant in JAGC earns approximately \$24,700 dollars per year.¹⁶ Although the services are losing the competition in pay, other factors do prompt some to apply for a commission in the JAGC.

These other factors were measured in a questionnaire given to the 33 members of the July 1987 Basic Class, by the Army JAGC Professional Recruiting Office. It shows that only 15% of that group listed pay and allowances as a primary factor in choosing the JAGC. The largest percentage -- 65% -- listed an opportunity to gain valuable experience as their primary reason for applying to JAGC. Other areas listed included diversity (23%), travel (31%),

¹² Army JAGC Recruiting Statistics indicate that the percentage in applications received from women has increased each FY since 1983 -- FY 83 - 10%, FY 84 - 18%, FY 85 - 18%, FY 86 - 21%, FY 87 - 28%.

¹³ An informal survey, conducted by PP&TO, of several women leaving active duty, who were also married to other JAGC officers or other service members, indicated that the majority left to establish a more stable home life for their children.

¹⁴ The Student Lawyer, The Thirteenth Annual Salary Survey, Nov 87.

¹⁵ Student Lawyer Salary Survey, Note 12.

¹⁶ Current military pay scale effective 1 Jan 88. This is an approximate salary based on pay and allowances for a first lieutenant with dependents, but excludes calculation for the variable housing allowance.

Army service (19%), and the summer intern program (4%). Even though this is a small sample, it does provide some information for recruiters to use in developing recruiting materials that appeal to the law school population.

Hiring Lawyers Before They Are Licensed to Practice

Many law firms have started hiring law graduates before they are admitted to the bar. Generally, once a law student graduates from law school, takes the bar examination, and receives the results of the examination, two to four months may elapse. This is a period where the law graduate is usually without a job. This may account for the high attrition rate among Army selectees. Currently an average of 50% of those selected to enter the JAGC fail to do so. The two to four month delay between the time an applicant graduates from law school and his or her eligibility to enter active duty contributes significantly to this attrition rate. Also, the applicant may have several other job offers and simply makes a choice not to enter JAGC.

Hiring law graduates before they are licensed to practice law benefits the law firms and the individual law graduate. The law graduate secures employment and current income, and the law firm benefits by having that graduate as a law clerk and ensures that the law graduate's talents are not lost to another law firm. Law firms, like the services, aggressively recruit new members. An extraordinary amount of time and effort goes into selecting the right applicant that will fit in and meet the needs of the organization. So hiring that person right away is a sound economic and managerial decision.

Hiring lawyers before they are licensed to practice poses some problems for the services. Applicable regulations and policies would have to be changed for this procedure to benefit the services. Currently, an applicant must be admitted to practice law before the highest State court of which the applicant is a member of the bar, or a federal court. This type of program would depend on the law graduate's status. For example, if the law graduate is also participating in the ROTC Educational Delay program, he or she would have military status and could enter active duty in their basic branch. Upon entry, they would be detailed to JAGC -- which means they would remain in the branch in which they were commissioned, but be assigned, and perform duties as part of the JA . This assumes that the basic branch would agree to allow these officers to count against their active duty spaces until their transfer

to JAGC -- highly unlikely given the current budget and personnel crises.

The more difficult problem would be how to handle direct appointee civilians who have no military status. One solution may be to develop a program like the Navy's JAG Corps Student Program which commissions law and pre-law students as ensigns in the Naval Reserve and allows them to remain on inactive duty while attending law school.¹⁷ The students participating in the program pay for their own law school education, but are eligible for regular promotions and time in service for pay purposes during law school. In addition, the students are guaranteed career opportunities after law school, and if admitted to the program during their first year in law school, they receive about 20% more in pay once they enter active duty. The student has a three year active duty obligation that commences following graduation from the Naval Justice School.

Another solution would be to develop a program similar to the Air Force's Graduate Law Program (GLP) which is a two year Air Force ROTC program for law students.¹⁸ To be eligible for this program, a student must be attending an ABA approved law school and be accepted during their first year in law school. Unlike the Navy's JAG Corps Student Program, participants in the GLP receive a \$100 per month tax-free stipend each month of school during their last two years. The students that complete the GLP incur a four year active duty obligation, and are guaranteed a position as a judge advocate if they are admitted to practice law within one year of graduation.

Although approval of any new programs by DOD is doubtful because of funding constraints, the proposals outlined above are possible solutions to the problem.

Higher Accession Attrition Rate for Minorities and Women than for White Males.

The attrition rate for women and minorities

¹⁷ United States, Department of the Navy, NAVY: Judge Advocate General's Corps, approved by Navy Publications and Printing Committee, 1 Feb 87, 4.

¹⁸ United States, Department of the Air Force, Air Force Lawyer Information Guide, Office of the Judge Advocate General, Aug 86, p. 5.

following selection, but prior to commissioning is about 65%, compared to 50% for white males.¹⁹ Why is this rate higher? Although not scientifically studied, it could be that women and minorities are less able to remain without employment or obtain alternative employment that would support them while waiting for bar results. The following graph shows the attrition rates for women and black applicants.



As noted above in FY 87, 164 women applied for a commission in JAGC, 111 were selected, and only 27 were actually commissioned. For black applicants -- 69 applied 38 were selected, and 15 actually were commissioned. Developing programs similar to the Navy's JAG Corps Student program and the Air Force's GLP may also assist in eliminating this problem.

ROTC Educational Delay Policies

All Officers attending law school under the ROTC Educational delay program are not applying for commission in the JAGC. This group includes many officers who are also ROTC Scholarship recipients. Prior to the personnel cutbacks, the Army Military Personnel Center (MILPERCEN) required ROTC Scholarship recipients to enter active duty to satisfy their service obligation. The active duty commitment was for four years in return for being on scholarship. Because of the personnel cutbacks, and the number of officers already serving on active duty, MILPERCEN began allowing many ROTC scholarship students to

satisfy their obligations in the U. S. Army Reserve. The following statistics illustrate the impact:

ROTC EDUCATIONAL DELAY CLASS OF 1988²⁰

Total graduating in 1988-----94

Total JAGC applications-----75

Shortfall-----19

This chart shows that 20% (19 potential judge advocates) of those officers on Educational Delay are not applying for JAGC. Add those students already selected for JAGC who are now allowed to serve their obligations in the Reserve, and the loss to JAGC is even more significant.

Although the Army Military Personnel Center (MILPERCEN) has agreed not to grant reserve duty to ROTC scholarship students if the JAGC objects, some students still filter through the system without applying for JAGC. However, many ROTC scholarship students have applied for JAGC and were not selected because of the stiff competition. There has to be some way to make the educational delay contingent on subsequent application to JAGC. Further, there should be some method of guaranteeing an ROTC Educational Delay law school student a position in JAGC if he or she meets all eligibility requirements.

One method would be to require all ROTC officers seeking an educational delay to attend law school to agree to the following:

- a. Be detailed to the JAGC while on educational delay.
- b. Attend an ABA approved law school and pursue a full time course of study.
- c. To apply for a commission in JAGC during the third year in law school.
- d. To accept appointment in JAGC, if offered.
- e. Serve on active duty for three years (four years for ROTC scholarship students) after being admitted to the bar and execution of the oath to enter the JAGC.

In return for the agreement, the JAGC would guarantee the students a position as a judge advocate, if they meet all qualification criteria as determined by the JAGC Accessions board.

During the period of educational delay, the JAGC would monitor the officer's progress in law school by reviewing grade reports. The student would also apply annually to JAGC for renewal of his or her educational delay.

The Advertising Campaign

I found that the advertising campaign is reaching the target population. This has resulted from a continual study of the market and revision of the advertisements to appeal to the prospective applicants. This process works well and should continue to keep pace with civilian lawyer recruiting -- within budget constraints.

Budget and Personnel Reductions

The Army and Air Force will be required to absorb all the officer reductions under a plan approved by the Secretary of Defense.²¹ The services Judge Advocate branches will likely have to accept a fair share of the reduction. Recruiting by all the services will be impacted by the proposed reductions in available funds and personnel. The impact will be felt the most in establishing new programs. The Office of the Secretary of Defense (OSD) is not likely to be receptive to proposals to increase recruiting efforts when existing programs have not been fully used.

The following recommendations must be viewed in light of the pending budget and personnel cuts, and the current policy in the Defense Department of not implementing new programs.

²¹

Jim Tice, "Army, Air Force Ordered To Bear All Officer Cuts", Army Times, January 18, 1988, p. 1.

CHAPTER 4

RECOMMENDATIONS

Based on the findings and analysis above, and a comparison of the service lawyer recruiting programs, I recommend the following:

1. Because of the increase in starting civilian salaries, additional financial incentives should be available for applicants for commission in JAGC. One example would be pay back of student loans. Many law students pay for their education, undergraduate and law school, through extensive use of student loans. Currently, many lending institutions will defer a student loan guaranteed under the Higher Education Act of 1965 (20 U.S.C. 1071) for three years if a student enters active duty. But, the student would pay interest on the loan during the deferment period. A program could be developed to assist students to pay off those loans after the law student has been commissioned in JAGC. Unfortunately, as indicated earlier, this recommendation is not likely to be approved because of the additional funding required. (However, planning could begin now for implementation following the current budget crises).

2. Revise the ROTC policies to limit ROTC Educational delay, scholarship and nonscholarship students from serving their commitment in the U.S. Army Reserve. At least require those students, as a condition to being granted an educational delay, to be detailed to JAGC during the period of educational delay, to sign an agreement to apply for a commission in JAGC during the first semester of their third year in law school, and accept appointment in JAGC, if offered.

3. Revise the rules on entry on active duty, and develop programs similar to the Navy's Student Program and the Air Force's Graduate Law Program. This would give the law school graduates military status and allow them to enter active duty while waiting for bar examination results. Many law students are in debt from paying the expenses of law school and cannot afford to be without a job. The Army program could be entitled "the JAGC Law Clerk Program". If these "law clerks" do not successfully pass the bar examination, allow them to serve their obligations in the Army Reserve -- but only after the second bar failure. Of course, their three year active

duty obligation would not begin to run until after admission to the bar and transfer to the JAGC.

The Army program would also allow students to apply during their first year to enter active duty in the summer to complete a two week indoctrination phase at Fort Lee, Virginia. Then they would spend the summer between their second and third year serving as law clerks in CONUS SJA offices closest to their law schools. Some modification of the Summer Intern Program and other existing programs would be required.

4. The Army JAGC should reinstate the Excess Leave Program. The reinstated program would operate like the current Air Force ELP that allows active duty commissioned officers, with at least two years of service, to attend law school at their own expense. Participants in the Excess Leave Program would incur a four year active duty service obligation.

5. The FLEP Program should be increased back to 25 students per year. This has been one of the best recruiting vehicles for the JAGC. At least 80% of the officers completing the program have remained on active duty.²²

6. The Advertising campaign appeals to the law students and lawyers. It should continue to be revised and updated to keep pace with the market.

7. The aggressive recruiting of as many minorities and women for service in JAGC should continue.

CHAPTER 5

CONCLUSION

The officers currently serving on active duty in the respective services are quality lawyers. They provide superb legal services for the armed forces. The recruiting programs can continue to recruit quality legal talent, but must do so within the constraints of the budget. The pending budget and personnel reductions will probably preclude the development of new programs.

It appears that the downward trend in applications for a commission in the JAGC will continue -- at least for the near term. As long as there is a corresponding decline in the overall law school population, the increase in female enrollment will continue to shrink the recruiting pool for the services. Even though applications from women for a commission in JAGC have increased an average of 19% during the past four years, it will be insufficient to offset the decline in applications.

Although the services can't compete with the salaries offered by the civilian law firms, other factors will influence lawyers and law students to seek a commission in JAGC.

In the final analysis, the Army JAGC and the other services can continue to attract quality lawyers, at least for the near term, through their aggressive recruiting programs. Whether the services can continue to attract quality lawyers for the long term will depend on their ability to develop innovative recruiting programs within existing budget constraints.

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29 AUG 2002
Ref: 01-F-2189


Mr. Michael Ravnitzky
Director of Database and Computer-Assisted Reporting
American Lawyer Media
1730 M Street, N.W., Suite 800
Washington, DC 20036

Dear Mr. Ravnitzky:

This responds to the August 6, 2001, referral by the Defense Technical Information Center (DTIC) of your March 13, 2001, Freedom of Information Act (FOIA) request and two documents to this Directorate, of which DTIC advised you. The documents, numbers AD-B115964 and AD-B134001, are enclosed.

There are no assessable fees for this action.

Sincerely,


H. J. McIntyre
Director

Enclosures:
As stated

cc: DTIC
(w/only DD Fm 1473 for each document)





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IN REPLY
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6 AUG 2001

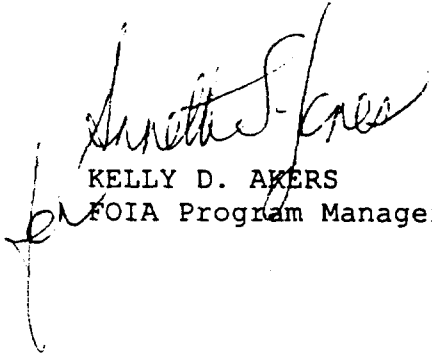
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TO: Department of Defense
Directorate of Freedom of Information
& Security Review
Room 2C757
1155 Defense Pentagon
Washington, DC 20301-1155

1. Reference FOIA request from Mr. Michael Ravnitzky, dated March 13, 2001 (enclosure 1).
2. Release of documents AD B115964, entitled *Plain English for Army Lawyers*, and AD B134001, entitled *The Army Judge Advocate General's Corps Recruiting Program: Can It Continue To Attract Quality Lawyers?* (enclosures 2 and 3) may only be performed by the appropriate controlling activity. Our records indicate that the documents were produced by the Industrial College of the Armed Forces, ICFA-AR, Fort McNair, Washington, DC 20319-6000. Therefore, we are forwarding the request to you for processing and direct response back to Mr. Ravnitzky. We have notified Mr. Ravnitzky of this action. Please note Mr. Ravnitzky's request has been forwarded to the appropriate controlling activities for the other documents listed in his letter.
3. Should your review of the documents result in a determination to delimit (make available to the public) one, or both, of the documents or a determination that the distribution statement should be changed, please advise this office in writing so we may mark our records accordingly.
4. The category of request is "news media." Mr. Ravnitzky incurred no assessable fees for services from the Defense Technical Information Center (DTIC). If you have any questions, call me at (703) 767-9194.

FOR THE ADMINISTRATOR:

3 Encls a/s


KELLY D. AKERS
FOIA Program Manager

01-F-2189



AMERICAN LAWYER MEDIA

March 14, 2001

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FOIA REQUEST

Dear Ms. Akers:

American Lawyer Media respectfully requests, under the Freedom of Information Act, a copy of the following records:

- AD B115964 Plain English for Army Lawyers.
- AD B134001 The Army Judge Advocate General's Corps Recruiting Program: Can It Continue to Attract Quality Lawyers?
- AD B116103 Legal Assistance Preventive Law Series.
- AD B241805 Litigiousness. Contract Design and the Economic Motives of the Contingent Fee Lawyer.
- AD B120334 Environmental Law for the Air Force.
- AD B157868 Maritime Defense Zones and the New World Order.
- AD B124193 Military Citation. Fourth Edition.
- AD B182238 User's Guide to the United States Marine Corps (USMC) Courts-Martial Database

We agree to pay up to \$25 for costs associated with this request. We are grateful for your kind assistance in this matter. Please contact me at 212-313-9067 if you have any questions relating to our request.

Sincerely,

Michael Ravnitzky

Editor

American Lawyer Media

Encl